

Permit Class
NEW
(EMERGENCY)

Permit Number
149-09

STATE OF NORTH CAROLINA
Department of Environment and Natural Resources
and
Coastal Resources Commission

Permit

for

☒ Major Development in an Area of Environmental Concern
pursuant to NCGS 113A-118

☒ Excavation and/or filling pursuant to NCGS 113-229

Issued to **N.C. Department of Transportation, 113 Airport Drive, Suite 100, Edenton, NC 27932**

Authorizing development in Dare County at adj. Atlantic Ocean, NC Highway 12, Pea Island National Wildlife Refuge, as requested in the permittee's application dated 11/18/09, incl. the attached workplan drawings (2): 1 dated 11/17/09 and 1 dated as received on 11/18/09; and attached AEC Hazard Notice dated 11/18/09.

This permit, issued on November 18, 2009, is subject to compliance with the application (where consistent with the permit), all applicable regulations, special conditions and notes set forth below. Any violation of these terms may be subject to fines, imprisonment or civil action; or may cause the permit to be null and void.

Roadway Relocation with Sandbags and Dune Reconstruction

- 1) Unless specifically altered herein, this permit authorizes the roadway relocation, sandbag repair and extension and dune reconstruction activities that are specifically referenced in the attached permit application and workplan drawings. Any additional development activities may require additional authorization.
- 2) In order to protect sea turtle and shorebird populations, as well as finfish and invertebrates in the surf zone, all work on the ocean beach or oceanward of the dunes shall be conducted outside of the sea turtle nesting season of May 1st to November 15th of any year. If the permittee determines that these timing restrictions cannot be met, the permittee shall obtain approval from the N.C. Division of Coastal Management and the United States Fish and Wildlife Service, in consultation with the N.C. Wildlife Resources Commission prior to conducting work between May 1st and November 15th.

(See attached sheets for Additional Conditions)

This permit action may be appealed by the permittee or other qualified persons within twenty (20) days of the issuing date. An appeal requires resolution prior to work initiation or continuance as the case may be.

This permit must be accessible on-site to Department personnel when the project is inspected for compliance.

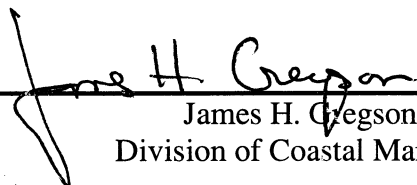
Any maintenance work or project modification not covered hereunder requires further Division approval.

All work must cease when the permit expires on

February 12, 2014

In issuing this permit, the State of North Carolina agrees that your project is consistent with the North Carolina Coastal Management Program.

Signed by the authority of the Secretary of DENR and the Chairman of the Coastal Resources Commission.


James H. Gregson, Director
Division of Coastal Management

This permit and its conditions are hereby accepted.

Signature of Permittee

ADDITIONAL CONDITIONS

- 3) Nothing in this permit authorizes any activity that has not received approval from the U.S. Fish and Wildlife Service (USFWS) for work within the Pea Island National Wildlife Refuge. Should additional authorization from the USFWS be required for any portion of the authorized project, the permittee shall obtain this authorization prior to initiating that portion of the project.
- 4) The waterward toe of the reconstructed dunes shall be staked by the permittee and approved on site by a representative of DCM, in consultation with the U.S. Fish and Wildlife Service, within a maximum of 7 days prior to the start of dune construction. Failure to initiate construction within 7 days, or further severe erosion of the shoreline by adverse weather conditions shall require the alignment to be restaked and re-approved within a maximum of 7 days prior to the new expected start of construction.
- 5) The material used to fill the sandbags shall be clean and free of any pollutants except in trace quantities.
- 6) All old bags and sand bag remnants shall be removed from the project site prior to the placement of sand for dune reconstruction purposes.
- 7) The repair and replacement of the existing sandbag structure, the incremental extension of the sandbag structure, and the removal of these sandbags shall all conform to the use standards found in 15A NCAC 07H.0308(a)(2).
- 8) Any waste materials or debris generated in the demolition and removal of the existing roadway shall be disposed of at an approved upland site or shall be recycled in an environmentally appropriate manner provided appropriate authorizations from any relevant state, federal, or local authorities are obtained.

NOTE: The permittee is advised that DCM shall regulate the removal of existing sandbags and the placement of new sandbags in accordance with 15A NCAC 07H .0308(a)(2)(F), or in accordance with any variances granted by the N.C. Coastal Resources Commission.

Sedimentation and Erosion Control

- 9) Appropriate sedimentation and erosion control devices, measures or structures shall be implemented to ensure that eroded materials do not enter adjacent wetlands or properties (e.g. silt fence, diversion swales or berms, etc.).
- 10) This project shall conform to all requirements of the N.C. Sedimentation Pollution Control Act and the N.C. Department of Transportation's (NCDOT's) Memorandum of Agreement with the Division of Land Resources.
- 11) In order to protect water quality, runoff from construction shall not visibly increase the amount of suspended sediments in adjacent waters.

ADDITIONAL CONDITIONS

General

NOTE: In accordance with 15A NCAC 07H .0308(a), no seawall or riprap revetments shall be allowed in the future should the relocated roadway become threatened from erosion. The permittee is strongly encouraged to implement a more permanent transportation solution for this section of highway.

- 12) Construction staging areas shall be located only in upland areas, and not in wetlands or waters of the State.
- 13) No excavated or fill material shall be placed at any time in any vegetated wetlands or surrounding waters without permit modification.
- 14) If it is determined that additional permanent and/or temporary impacts (such as but not limited to temporary access roads and detours) are necessary that are not shown on the attached workplan drawings or described in the authorized permit application, a permit modification and/or additional authorization from DCM shall be required. In addition, any changes in the approved plan may also require a permit modification and/or additional authorization from DCM. The permittee shall contact a representative of DCM prior to commencement of any such activity for this determination and any permit modification.
- 15) Any relocation of utility lines that is not already depicted on the attached work plan drawings, or described within the attached permit application, shall require approval by DCM, either under the authority of this permit, or by the utility company obtaining separate authorization.
- 16) Development authorized by this permit shall only be conducted on lands owned by the N.C. Department of Transportation and/or within NCDOT Right-of-Ways and/or easements.
- 17) The permittee and/or his contractor shall contact the DCM Transportation Field Representative in Elizabeth City to request a preconstruction conference prior to project initiation.

NOTE: This permit does not eliminate the need to obtain any additional permits, approvals or authorizations that may be required, including but not limited to any required permits from the N.C. Division of Water Quality and/or the U.S. Army Corps of Engineers.